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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: LITTLE, Lawrence C. Attorney Docket: 1430/103
Serial No.: 10/827,140 Art Unit: 3749
Date Filed: 4/19/2004 Examiner:
Invention: Welding Torch Striker with Safety Stopper

Director for Patents,
P.O. Box 1450, Alexandria, Virginia 22313-1450

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a)(1))

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Linda Abbott
Linda Abbott

February 2, 2005

PRELIMINARY AMENDMENT

Dear Sir:

The present application is a CIP of parent application serial number 10/735,175, filed December 12, 2003. Parent application serial number 10/735,175 is being allowed to go abandoned in favor of the present CIP application. During prosecution of the parent application, the Examiner objected to the drawings, the specification, and the claims. The following remarks are addressed to the Examiner's objections in prosecution of the parent application, as applied to the present CIP application.

Examiner's Objections to the Drawings in the Parent Application

Examiner's First Objection to the Drawings

In objecting to the drawings of the parent application, the Examiner stated as follows:

Figures 9-15 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures.

Applicant's Response

FIGS. 9-15 of the present application correspond to FIGS. 9-15 of the parent application. Replacement sheets 6/14 (containing FIGS. 9-12) and 7/14 (containing FIGS. 13-15), are provided herewith amended to show all FIGS. marked "PRIOR ART". Both sheets are marked "REPLACEMENT SHEET". Note: In this Preliminary Amendment all sheets are renumbered (from 1/13-13/13 to 1/14 to 14/14) in order to add one new sheet of drawings. So a full set of sheets (1/14 through 14/14) is provided herewith, each marked "REPLACEMENT SHEET".

Examiner's Second Objection to the Drawings

In objecting to the drawings of the parent application, the Examiner further stated as follows:

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: In figure 6 "Spring latch 29, as shown again in FIGS. 5 and 6, may hook onto hammer strap 55 or onto the construction worker's belt 56" (P: 0044, L: 3-4) are not shown. In figures 16 the bend of striker 61 does not protrude over the front pouch while in figure 17 the bend protrudes over the front pouch of the stopper 60. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended.

Applicant's Response

FIG. 6 on replacement sheet 4/14 of the present application (which corresponds to FIG. 6 on sheet 4/12 of the parent application) includes as originally filed, item numbers 29, 40, 55 and 56.

FIG. 16 on replacement sheet 8/14 of the present application corresponds to FIG. 16 on sheet 8/12 of the parent application. FIG. 16 in both applications fails to show the bend of striker 61 protruding over the front pouch. Accordingly, replacement sheet 8/14 is provided herewith. Replacement sheet 8/14 shows the bend of striker 61 protruding over the front pouch.

Examiner's Third Objection to the Drawings

In objecting to the drawings of the parent application, the Examiner further stated as follows:

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the "front face of safety stopper 80, including the exposed part of plate 81 and the exposed parts of attached front pouches have a smooth, tough outer face" (P: 0056, L: 1-2) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

Applicant's Response

Paragraph 0071 in the present application corresponds to paragraph 0056 cited by the Examiner from the parent application. The wording is substantially identical. Applicant notes that safety stopper 80 is illustrated in FIGS. 19-21, and that FIGS. 19-21 do not show pouches. Applicant further notes that the invention, as claimed in claims 1-4 and 7-9, does not require pouches, and that the invention can be used with or without pouches, as most clearly expressed in comparison of claims 1 and 5, as filed with the application. So in response to the Examiner's objection, applicant has amended herein below the first sentence of paragraph 71 in the specification to have the wording of paragraph 71 match the referenced drawing of FIG. 9. It is believed that this amendment eliminates the specific mismatch identified by the Examiner, without introducing new matter. Furthermore it does not narrow the scope of the claims because support for using the invention with or without pouches is found in claims 1 and 5.

Examiner's Fourth Objection to the Drawings

In objecting to the drawings of the parent application, the Examiner further stated as follows:

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "safety stopper according to claim 10, wherein the cover is a rigid metallic cover in sliding, overlapping relationship to the first swinging arm, and the attachment means includes tack-welds attaching the metallic cover to the second arm" (C: 18, L: 1-3) must be shown or the feature(s) canceled from the claim(s).

Applicant's Response

In a telephonic Examiner Interview on January 6, 2005, by the Applicant's Agent, it was agreed that this drawing objection was based on the subject matter of claim 18 missing from the drawings. Applicant's Agent agreed to provide additional drawings showing the missing items, and to make additional changes to the specification to properly integrate the additional drawings. (A copy of Examiner's Interview Summary, dated 1/7/05, in parent application, is enclosed herewith and is made of record). To provide the additional drawings, new FIGS. 29-32 are added by Preliminary Amendment as new sheet 13/14 in the present application. New FIGS. 29-32 illustrate "a metal plate tack-welded to one of the two arms", as required by the Examiner, in support of claim 18 in the present application (claim 18 is same as in parent application).

It is believed that the insertion of FIGS. 29-32 showing "a rigid metallic plate tack-welded to one of the two arms" provides the necessary drawing support for claim 18 because "tack welds" are disclosed in the specification of the present application, as filed, at paragraphs 0077 and 0085, and are claimed in claim 18. Applicant believes that neither the new drawings nor their associated supportive text introduce new matter.

To properly integrate FIGS. 29-32 into the present application, paragraph 0047 is amended, and FIG. 22 is corrected to provide the missing label "SECTION C-C". Paragraph 0077 (corresponding to paragraph 0062 of the parent application) has been amended to replace "(not shown)" by - (shown in FIGS. 29-32) -. Paragraph 0077 has been further amended to refer to "rigid metallic plate 111" in FIGS. 29-32, and "tack weld" 114" in FIGS. 30-32. (The

numbers are item numbers newly given to features claimed in claim 18, features that are now shown in FIGS. 30-32). These items find support in claim 18 and specification paragraph 0085 of the application as filed. New paragraphs 0051-0054 and 0086-0089 are added to list, briefly describe, and discuss the added FIGS. 29-32.

To accommodate new sheet 13/14 (containing new FIGS. 29-32 and having new item numbers in the 11X series), sheet 13/13 (containing FIGS. 29-30, as filed, and having item numbers, as filed, in the 11X and 12X series) is replaced by replacement sheet 14/14 (containing FIGS. 33-34 and having new item numbers in the 12X and 13X series). To ensure consistency of FIG. 25 with the added FIG. 32, replacement sheet 11/14 is provided herewith. In replacement sheet 11/14, the qualifying phrase "part of" and the missing location identifier "view across C-C of FIG. 22" are added. In the specification, under "Brief Description of the Drawings", new FIGS. 29-32 are listed and described. Also, renumbered FIGS. 33-34 (replacing FIGS. 29-30, as filed) are listed and described. It is believed that these changes to the drawings and the specification add no new matter.

Examiner's Objections to the Specification in the Parent Application

Examiner's First Objection to the Specification

The Examiner further objected to the specification in prosecution of the parent application. The Examiner stated as follows:

The disclosure is objected to because of the following informalities: Under the title of the invention insert the title - CROSS-REFERENCE TO RELATED APPLICATIONS -. Delete the title "TECHNICAL FIELD" insert the title – Field of the Invention – under the title "BACKGROUND OF THE INVENTION" and move paragraph 0001 under the title "Field of the Invention". Appropriate correction is required.

Applicant's Response

Amendments to the specification in the present application are entered herein below, on page 5 of this document, under "AMENDMENTS TO THE SPECIFICATION" to make subtitle changes equivalent to those requested by the Examiner in the parent application, as required by 37 CFR 1.77(b)(2) and (c).

Examiner's Second Objection to the Specification

The Examiner further stated as follows:

In paragraph 0013 delete "show a Pearson model 2001 striker" should be –
(prior art) shows a front and side view of a Pearson model 2001 striker -.

In line 1 of paragraph 0062 "(not shown)" should be deleted if Applicant makes the changes to the drawings based on claim 18.

Applicant's Response

Paragraph 0026 of the present application corresponds to paragraph 0013 of the parent application, so paragraph 0026 of the present application is amended herein below to read "FIGS. 3 and 4 (both prior art) show a front and side view of a Pearson model 2001 striker" as required by the Examiner in the parent application.

Examiner's Objections to the Claims in the Parent Application

The Examiner objected to claims 10-18 in prosecution of the parent application. The Examiner stated as follows:

Claims 10-18 are objected to because of the following informalities: In claim 10, line 1, "the cover includes a rigid plate" should be deleted and - the cover is a rigid plate - inserted, because the cover does not include a rigid plate it is a rigid plate. In claim 16, lines 1-2, "the cover includes two rigid plates" should be deleted and - the cover includes another rigid plate - inserted, because claim 16 depends from claim 10 and if you claim an additional two rigid plates the Applicant will have a total of three rigid plates which is not supported by the specification. In claim 17, lines 1-3, "the cover includes a first rigid plate having at least one integral spacer and a second rigid plate having at least one socket sized to accept the at least one integral spacer" should be deleted and - the rigid plate has at least one integral spacer and the other rigid plate having at least one socket sized to accept the at least one integral spacer - inserted, because this would make it compatible with claim 16 from which it depends and there is not any antecedent basis for a first rigid plate and a second rigid plate. Appropriate correction is required.

Applicant's Response

Claims 10-18 in the parent application correspond most closely to claims 10-18 in the present application. However, claim 10 in the present application, unlike claim 10 in the parent application, is written in independent form and does not include the phrase "the cover includes a rigid plate". This phrase, found only in claim 10 of the parent application, was the source of the Examiner's objection to claims 10-18. This phrase is not found in any of claims 10-18 of the present application. Therefore, the Examiner's objection to claims 10-18 in the parent application is not applicable to claims 10-18 in the present application.